* **IN THE HIGH COURT OF DELHI AT NEWDELHI**

% Reserved on : January 25, 2007
Date of Decision : January 31, 2007

\+ W.P. (C) 17492 of 2004

HARI SEHRAWAT ..... PETITIONER
Through : Mr. L.B. Rai, Advocate

versus

D.D.A. & ORS. .... RESPONDENT
Through: Mr. C. Mohan Rao, Advocate

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in Digest? Yes

: Dr. S. Muralidhar, J.

1. The petitioner assails a letter dated 29.4.2002 from the DDA to "Legal heirs of Sri Khazan Singh S/o Sri Kehar Singh" informing that

the allotment of the alternative plot (Plot No.64, Pocket-10, Block-B, Sector 13) measuring 33.06 meters in Dwaraka Residential Scheme under the Scheme of Large Scale Acquisition, Development and disposal of land in Delhi, stands cancelled. The said letter reads-

> "I am directed to inform you that the above plot which was allotted to you has now been cancelled by the competent authority due to failure in payment.
> Further, as per policy approved, three chances are given to all the recommendees for alternative allotment of plot and, in your case, you have lost all the three chances. This was the last & final chance. Thus, your recommendation will not carry any legal commitment in future for alternative allotment"

It appears that the petitioner wrote to the DDA on 23.10.2003 making a claim for the allotment of an alternative plot of land. To this, the DDA replied on 21.11.2003 stating that the allotment already made stood cancelled as had already been communicated by the letter dated 29.4.2002.

2. The petitioner admittedly is one of the sons of late Sri Khazan Singh. He has four sisters and his mother all of whom are arrayed as

respondent nos. 2 to 6. The petitioner does not dispute that if at all, the entitlement under the Policy is only for a joint allotment to all the legal heirs of Sri Khazan Singh. Still, he insists that merely because the other legal heirs are not interested for some reason in claiming their entitlement to an alternative plot in their capacity as legal heirs of Sri Khazan Singh, he cannot be deprived of his entitlement. The counsel for the petitioner also assails reasons given by the DDA for the cancellation of the allotment. He submits that none of the three letters of intimation of allotment were in fact received by him or by any of the legal heirs of Sri Khazan Singh.

3. The stand taken by the DDA on the basis of the records of the case is contained in its counter affidavit dated 3.3.2005. The first draw of lots was held on 26.3.1993 and a demand-cum-allotment letter was issued to Sri Ram Chander. However, no payment was received. Consequent upon a second draw of lots, another allotment letter dated 20.1.1997 was issued. It is stated that at this stage one of the sons of Sri Khazan Singh, Sri Ram Chander, had written to the DDA on 8.5.1997 stating that allotment letter may be sent to him at the address mentioned in the letter. However, this allotment was also cancelled since the amount was not paid within the stipulated period.

4. For a third time, the name of Sri Khazan Singh was included in the draw of lots and a demand-cum-allotment letter was issued on 5.11.2001 addressed to Sri Ram Chander at the address given by him. This was, however, returned undelivered. What transpired thereafter is indicated in paras 11, 12 and 13 of the counter affidavit which reads as under:-

> "11. The answering respondent therefore, decided to serve the demand-cum-allotment letter through personal service. The concerned Dealing Assistant, LSB(R) made a note at Page 16/N stating that:
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> > *"..... In the above context it is submitted that perusal of the file reveals that there are nine more legal heirs and it is possible that any one may be available on the address as mentioned at Page 11/C. We may, therefore, if agreed, request the AE(R) to get the DAL delivered through his field staff"*
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> 12. In response thereto, the field staff visited 218-219 village and P.O. Mahipalpur, New Delhi. It was noted that Sri Ram Chander was not living there. However, Smt.

> Kella W/o Late Sri Khazan Sigh was available but she refused to acknowledge the demand-cum-allotment letter. She also informed the staff that Late Shri Khazan was already allotted a plot in Dwaraka in lieu of acquired land but was unable to give the details. Accordingly, AE(R) made a relevant not in the noting file. A copy of the extract of the relevant note is annexed hereto and marked as ANNEXURE-R/1.
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> 13. After receiving the report on efforts being made to personally serve the legal heirs of Late Sri Khazan Sigh as decision a decision was taken to cancel the allotment as no payment was received and also no documents were received for mutation. Thus, the allotment was canceled and the case was finally closed vide letter dated 29.4.2002 (available at page 19 of the writ petition)"

The counsel for the petitioner vehemently disputes the above explanation given by DDA and maintains that no letter was in fact received by any of the legal heirs of Sri Khazan Singh.

5. In order to satisfy itself that the stand taken by the DDA is based on the records maintained by it, this Court summoned and perused the records of the case. The Court is satisfied that DDA has

made every effort to serve the letter of allotment on three occasions on the legal heirs of Sri Khazan Singh. On the last occasion there is a report of the staff of DDA stating that the allotment letter was not accepted by the mother of the petitioner herein. There is absolutely no reason why this report, which forms part of the DDA records, should be disbelieved.

6. Counsel for the petitioner seeks to place reliance on the decision of this Court in ***Sona Devi vs. DDA & Ors.*** 2001 V AD (Delhi) 297 where it was held that cancellation of allotment consequent upon the non-receipt of such allotment letter by the allottee, would be unsustainable in law. The said decision cannot apply in the instant case where the facts reveal that letter of allotment was indeed delivered to the heirs of late Sri Khazan Singh but not accepted. The Court is satisfied that the decision of the DDA to cancel the allotment, as communicated in the impugned letter dated 29.4.2002, does not suffer from any legal infirmity.

7. In the above circumstances, the writ petition is without merit and is dismissed as such. No order as to costs.

S.MURALIDHAR, J.

January 31, 2007

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